IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2409 OF 2005

M/s. Khandelwal Merchants
(P). Ltd. and others ...Petitioners

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. S.A. Chaurasia i/b A.M. Sarogi counsel for Petitioners.

Mr. S.A. Shaikh, counsel for Respondent No.2.

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CORAM: B. H. MARLAPALLE, J.

DATED: 15TH APRIL, 2005

P. C.:-

1. Heard the learned counsel for the petitioners. In dispute No. 793 of 1994, the Co-operative Court has passed a decree on 10.3.2005 and the said decree is challenged in an appeal presently pending before the Maharashtra Co-operative Appellate Tribunal. In the said appeal interlocutory application No. 23 of 2005 has been filed praying for stay to the said decree. The lower appellate Court noted that the appellant admitted the liability for payment of Rs.60,000/- whereas the decree was for an amount of Rs.2,19,550.17/- as on 30.6.2002. The lower appellate Court therefore, directed the appellant to deposit an amount of Rs.1,00,000/- on or before

11.4.2005 so as to consider the prayer for stay to the decree. This order has been challenged in the instant petition.

2. The discretion exercised by the lower appellate court in directing to deposit an amount of Rs.1,00,000/- does not appear to be perverse or patently erroneous so as to call for interference in writ petition under Article 227 of the Constitution.

3. The petition is, therefore, rejected summarily.

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